

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BOILERMAKERS NATIONAL ANNUITY  
TRUST FUND, on behalf of itself and all  
others similarly situated,

Plaintiff,

v.

WAMU MORTGAGE PASS THROUGH  
CERTIFICATES, SERIES 2006-ARI *et al.*  
Defendants.

NEW ORLEANS EMPLOYEES'  
RETIREMENT SYSTEM, *et al.*,  
Plaintiffs,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION, *et al.*,  
Defendants.

NEW ORLEANS EMPLOYEES'  
RETIREMENT SYSTEM, *et al.*,  
Plaintiffs,

v.

THE FIRST AMERICAN CORPORATION,  
*et al.*,  
Defendants.

**NO. C09-0037 MJP**

[Consolidated with: Case No. C09-0134MJP  
and Case No. C09-0137MJP]

**MOTION TO FILE OVERLENGTH  
BRIEF**

**NOTE FOR MOTION CALENDAR:  
DECEMBER 16, 2009**

MOTION TO FILE OVERLENGTH BRIEF - 1

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1 Pursuant to LR 7(f)(1), the WaMu Defendants<sup>1</sup> seek permission to file a single motion  
2 to dismiss of up to 48 pages. Plaintiffs' counsel has stated that it will not oppose a motion to  
3 extend the page limit for Defendants' motion to dismiss.  
4

## 5 **I. FACTUAL BACKGROUND**

6 Plaintiffs have filed an 89-page, 265-paragraph consolidated class action complaint  
7 (the "Complaint") alleging violations of the Securities Act and the Washington State  
8 Securities Act by WaMu Asset Acceptance Corporation and certain of its officers and  
9 directors, WaMu Capital Corporation, First American Corporation, and two ratings agencies.  
10 Plaintiffs seek to represent a class of purchasers of thirty-six different mortgage-backed  
11 securities offerings issued in 2006 and 2007. By order dated November 2, 2009, the Court  
12 approved a briefing schedule under which Defendants' motions to dismiss must be filed by  
13 December 23, 2009. (Dkt. 99.) All six of the WaMu Defendants intend to join in a single  
14 joint motion to dismiss. Although all WaMu Defendants would be entitled to file separate  
15 motions to dismiss, filing a single motion of up to 48 pages is the most efficient way for these  
16 six Defendants to present their arguments to the Court.  
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18  
19

## 20 **II. ARGUMENT**

21 The Complaint states claims related to thirty-six different securities offerings, each  
22 with its own set of SEC filings that Plaintiffs contend contain misrepresentations. Each of the  
23 SEC filings at issue is over a hundred pages and contains numerous disclosures relevant to  
24 Plaintiffs' allegations. The Complaint alleges different claims against each of the WaMu  
25

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26 <sup>1</sup> The WaMu Defendants are WaMu Asset Acceptance Corporation, WaMu Capital Corporation, David Beck,  
27 Diane Novak, Rolland Jurgens and Richard Careaga. Three other individual defendants, Thomas Lehmann,  
28 Stephen Fortunato, and Donald Wilhelm have until January 24, 2010 to respond to the Complaint and do not join  
in this motion.

Defendants, each of which must be addressed in the motion to dismiss. The Complaint also adds claims relating to securities that have not previously been part of this action.

The WaMu Defendants have sought to present their grounds for dismissal as concisely and efficiently as possible. Through these efforts, however, it has become clear that the motion cannot be adequately briefed in a single motion in twenty-four pages allotted under LR 7(e). Given the weight that a motion to dismiss carries under the Private Securities Litigation Reform Act of 1995, the scope and complexity of the Complaint, the volume of the securities filings at issue, and other material that must be analyzed, 48 pages is a reasonable length for a motion to dismiss in this case.

DATED this 16th day of December, 2009.

BINGHAM McCUTCHEN LLP

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16th day of December, 2009, I electronically filed the  
3 foregoing with the Clerk of the Court using the CM/ECF system which will send notification  
4 of such filing to the following:  
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6 DATED this 16th day of December, 2009 at Seattle, Washington.

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